

DSWD OPINION NO. 67 S. 2024

DRN: LS-L-LO-24-08-50508-C

MEMORANDUM

FOR : ATTY. ERICKSON C. LUZ
Director IV, Peace and Development Buong Bansa Mapayapa
– National Program Management Office (PDBBM-NPMO)

FROM : THE ASSISTANT SECRETARY FOR GENERAL
ADMINISTRATION AND SUPPORT SERVICES GROUP AND
CONCURRENT OFFICER-IN-CHARGE, LEGAL SERVICE

SUBJECT : LEGAL ADVICE ON THE REPURPOSING OF PHP 658-
MILLION GRANTS UNDER THE MILF NORMALIZATION
PROGRAM

DATE : 04 SEPTEMBER 2024

This pertains to your Memorandum¹ requesting for technical guidance from the Legal Service (LS) and the Financial Management Service (FMS) on the repurposing of the undisbursed Bangsamoro Transitory Family Support Package (BTFSP) and Livelihood Settlement Grants (LSG) in the amount of **Six Hundred Fifty-Eight Million Seven Hundred Thousand Pesos (Php 658,700,000.00)** to maximize its use for other assistance and targets.

Per your Memorandum, the Department of Social Welfare and Development (DSWD) leads the provision of the BTFSP and LSG amounting to Php 100,000.00 to each Moro Islamic Liberation Front (MILF) combatant who undergoes the decommissioning process. The allocations for the implementation of this program are transferred from the Office of the Presidential Adviser on Peace, Reconciliation, and Unity (OPAPRU) to this Department through the signing of Memorandum of Agreement (MOA)².

For this year, a total of **Php 658,700,000.00³** worth of grants is yet to be disbursed. However, pending the submission of the list of combatants by the MILF Peace implementing Panel to the Government of the Philippines for the Phase 4 decommissioning activities, the provision of grants cannot be scheduled and completed. Considering that the validity of the subject funds will expire on 31 December 2024, OPAPRU requested for the repurposing of the grants to other assistance and targets to maximize the use of these government funds.

Specifically, you sought our technical advice on the following:

1. Implications of the modification of funds; and

¹ Annex A – Memorandum from PDBBM-NPMO dated 15 August 2024

² Annex B – MOA executed on 28 April 2023, as supplemented by MOA dated 30 December 2023;

Annex C – MOA executed on 08 May 2024

³ 198,700,000 covered by the 2023 MOA; and 460,000,000 covered by the 2024 MOA

2. Needed documents to legally and financially execute the repurposing of grants.

LS and FMS Comments

The intended purpose of the MOA as enshrined under ARTICLE I thereof is as follows:

ARTICLE I PURPOSE

The purpose of this MOA is an inter-agency agreement defining the mutual and agency specific roles and responsibilities of the OPAPRU and the DSWD, as well as the institutional arrangements for collaboration and partnership between the parties, in the implementation of the **DSWD Socioeconomic Program for Normalization in the Bangsamoro** as anchored under the Socioeconomic Development Aspect of the Annex on Normalization under the CAB [Comprehensive Agreement in the Bangsamoro]. (found in both 2023 and 2024 MOAs)

As enshrined under the Commission on Audit ("COA") Circular No. 94-013⁴, transferred funds are used only for the intended purpose. In this case, the transfer of funds made by OPAPRU in favor of the DSWD was intended for the implementation of **DSWD Socioeconomic Program for Normalization in the Bangsamoro**.

Albeit the well-established rule that a contract serves as the law between the parties, the DSWD and the OPAPRU, as contracting parties in a transaction which involve an inter-agency transfer of funds, must follow the rules set forth by the COA as the auditing body designated under Article IX-D of the 1987 Philippine Constitution.

Thus, the LS and FMS respectfully submits that the "repurposing" of the transferred funds is feasible and may be allowed provided that the following conditions are complied:

- The funds may be used for other assistance and targets provided that such form of assistance or targets, or other viable programs and services, are still covered or part of the implementation of the DSWD Socioeconomic Program for Normalization in the Bangsamoro and consistent with Socioeconomic Aspect of the Annex on Normalization under the Comprehensive Agreement in the Bangsamoro (CAB);
- The utilization of the transferred funds sourced from the General Appropriations Act (GAA) 2023 is only until **31 December 2024**;
- The amendment of the MOA must be mutually agreed upon by the Parties, through their authorized representatives, in writing, together with an approved revised **Work and Financial Plan (WFP)** that supports the implementation of the aforementioned other assistance or targets to implement the **DSWD Socioeconomic Program for Normalization in the Bangsamoro**:
 - Regarding the query from the Peace and Development Buong Bansa Mapayapa – National Program Management Office (PDBBM-NPMO) about

⁴ Rules and Regulation in the Grant: Utilization and Liquidation of Funds Transferred to Implementing Agencies


the needed documents, aside from the MOA Amendment and the revised WFP, the DSWD shall require the OPAPRU for an express approval from the Office of the President (OP) on the repurposing of the use of funds, including the targeting system for the repurposed program beneficiaries, or-at least-an OPAPRU certification that the revised program purpose/s is/are consistent and aligned with the Socioeconomic Development Aspect of the Annex on Normalization under the CAB. Also, the DSWD, through the PDBBM-NPMO, should issue a certification that the resubmitted OPAPRU program purpose/s is/are within the DSWD's mandate; and

- In the implementation of the repurposed program, a Memorandum Circular (MC) must be issued to guide program execution components and modes, including the identification of program beneficiaries.


Lastly, please be informed that the foregoing legal opinion, is based solely on the information provided by your office, and may vary based on additional information or document/s or when the facts are changed or elaborated.

For your consideration.

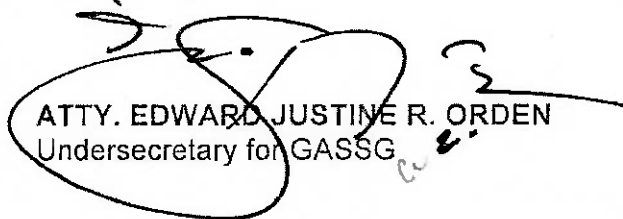
Thank you.


ATTY. GINA V. WENCESLAO

MCMUG/AA/AV/10065


WAYNE C. BELIZAR
Director IV, Financial Management Service
JR/JB/MA/VO/P10164 ✓

Approved by:


ATTY. EDWARD JUSTINE R. ORDEN
Undersecretary for GASSG